



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

LHE/BLW
F. #2019R00489

271 Cadman Plaza East
Brooklyn, New York 11201

January 16, 2024

By Email and ECF

John S. Wallenstein, Esq.
1100 Franklin Avenue
Suite 100
Garden City, NY 11530

Re: United States v. Stephan Burton
Criminal Docket No. 22-079 (PKC)

Dear Mr. Wallenstein:

Enclosed please find the government's initial discovery production in accordance with Rule 16 of the Federal Rules of Criminal Procedure. The production contains documents Bates numbered EDNY-00000001 through EDNY-00000331 and is produced pursuant to the protective order entered in this case. See ECF No. 18.

I. The Government's Discovery

A. The Defendant's Criminal History

The government is not currently aware of any prior criminal history for the defendant.

B. Documents and Tangible Objects

Please find enclosed the following:

- Grand Jury Subpoena return from Amazon, Bates numbered EDNY-00000001
- Grand Jury Subpoena returns from Apple, Bates numbered EDNY-00000002 – EDNY-00000021

- Grand Jury Subpoena return from Bank of New York Mellon, Bates numbered EDNY-00000022 – EDNY-00000023
- Grand Jury Subpoena return from Clearing House Payment Company, Bates numbered EDNY-00000024 – EDNY-00000035
- Grand Jury Subpoena return from Coinbase, Bates numbered EDNY-00000036
- Grand Jury Subpoena return from Earth Class Mail, Bates numbered EDNY-00000037 – EDNY-00000059
- Grand Jury Subpoena Returns from Facebook, Bates numbered EDNY-00000060 – EDNY-00000063
- Grand Jury Subpoena returns from the Federal Reserve Bank of New York, Bates numbered EDNY-00000064 – EDNY-00000073
- Grand Jury Subpoena returns from Google, Bates numbered EDNY-00000074 – EDNY-00000109
- Grand Jury Subpoena return from Hilton Domestic Operating Company, Bates numbered EDNY-00000110 – EDNY-00000114
- Grand Jury Subpoena return from HSBC Bank, Bates numbered EDNY-00000115 – EDNY-00000225
- Grand Jury Subpoena return from Hyatt Hotels and Resorts, Bates numbered EDNY-00000226
- Grand Jury Subpoena return from Instagram, Bates numbered EDNY-00000227 – EDNY-00000230
- Grand Jury Subpoena return from LinkedIn, Bates numbered EDNY-00000231 – EDNY-00000237
- Grand Jury Subpoena return from Marriot International, Bates numbered EDNY-00000238 – EDNY-00000263
- Grand Jury Subpoena returns from Microsoft, Bates numbered EDNY-00000264 – EDNY-00000277
- Grand Jury Subpoena return from Oath Holdings (Yahoo), Bates numbered EDNY-00000278 – EDNY-00000281

- Grand Jury Subpoena return from PayPal, Bates numbered EDNY-00000282 – EDNY-00000307
- Grand Jury Subpoena return from Pinterest, Bates numbered EDNY-00000308 – EDNY-00000309
- Grand Jury Subpoena return from TIAA Bank, Bates numbered EDNY-00000310 – EDNY-00000318
- Grand Jury Subpoena return from Twitter, Bates numbered EDNY-00000319 – EDNY-00000324
- Grand Jury Subpoena return from Vmware, Bates numbered EDNY-00000325 – EDNY-00000326
- Grand Jury Subpoena return from WhatsApp, Bates numbered EDNY-00000327
- Grand Jury Subpoena return from Wix.com, Bates numbered EDNY-00000328 – EDNY-00000329
- Grand Jury Subpoena return from Wyndam Hotels and Resorts, Bates numbered EDNY-00000330 – EDNY-00000331

C. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703 and 705 and notify you in a timely fashion of any expert that the government intends to call at trial and provide you with a summary of the expert's opinion.

D. Brady Material

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

E. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Fed. R. Evid. 404(b).

II. The Defendant's Required Disclosures

The government hereby requests reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, data, photographs, tapes, tangible objects, or copies or portions thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, that are in the defendant's possession, custody or control, and that the defendant intends to introduce as evidence or otherwise rely upon at trial, or that were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid unnecessary delays, the government requests that the defendant have copies of those statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony that the defendant intends to use as evidence at trial under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for the opinions, and the qualification of the witnesses.

Pursuant to Fed. R. Crim. P. 12.3, the government hereby demands written notice of the defendant's intention, if any, to claim a defense of actual or believed exercise of public authority, and also demands the names and addresses of the witnesses upon whom the defendant intends to rely in establishing the defense identified in any such notice.

III. Future Discussions

If you have any questions or requests regarding further discovery or a disposition of this matter, please do not hesitate to contact me.

Please be advised that, pursuant to the policy of the Office concerning plea offers and negotiations, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, any discussion regarding the pretrial disposition of a matter that is not reduced to writing and signed by authorized representatives of

the Office cannot and does not constitute a “formal offer” or a “plea offer,” as those terms are used in Lafler v. Cooper, 132 S. Ct. 1376 (2012), and Missouri v. Frye, 132 S. Ct. 1399 (2012).

Very truly yours,

BREON PEACE
United States Attorney

By: /s/ Lauren Howard Elbert
Lauren Howard Elbert
Benjamin L. Weintraub
Assistant U.S. Attorneys
(718) 254-7577 (L. Elbert)

Enclosures

cc: Clerk of the Court (PKC) (by ECF) (without enclosures)